

REGION 10 OWW TOPIC BRIEFING

TRIBAL CONSULTATION AND REVIEW UPDATE FOR DESCHUTES TOTAL MAXIMUM DAILY LOAD (TMDL), THURSTON & LEWIS COUNTIES, WASHINGTON

Meeting Purpose

Provide background information and update Dan on the following:

- Status of EPA TMDL Review;
- Squaxin Island Tribe TMDL Concerns; and
- Options for Moving Forward

Project Background

The Deschutes River, Percival Creek, and Budd Inlet Tributaries (Phase 1) TMDL study area (186 mi²) is located in south Puget Sound and is situated within the boundaries of Thurston and Lewis Counties, Washington (Figure 1). The study area includes the major cities or towns of Olympia, Lacey, Tumwater, and Rainier. Significant data collection to support the Phase 1 TMDL began in 2003. Data analysis and modeling concluded in 2012. On December 17, 2015, Ecology submitted the final Phase 1 TMDL to EPA for approval. The submitted TMDL package includes a request that EPA approve allocations for 71 Water Quality Limited Segments (WQLSs) impaired by five pollutants (temperature, dissolved oxygen [DO], pH, fecal coliform, and fine sediment). EPA understands that Ecology is developing a TMDL for Budd Inlet and Capitol Lake as Phase 2 of the Deschutes TMDL. According to the timeline shared with EPA in March 2016, Ecology is tentatively planning to submit the Phase 2 TMDL for approval in June 2019.

The Squaxin Island Tribe (SIT) has maintained throughout the TMDL development and public notice process that critical aquatic improvement measures (see *Squaxin Island Tribe TMDL Concerns*) are missing from the TMDL. EPA met with SIT in 2015 to discuss these concerns. In addition to concerns

(b) (5)

NWEA filed a complaint in 2014 regarding Ecology's use of Natural Condition Criteria (NCC). Should NCC provisions be rescinded, parts of the Phase 1 TMDL may be invalidated because the TMDL considered or applied targets (temperature, DO, and pH) that were based on system potential (~modeled interpretation of highest quality condition attainable).

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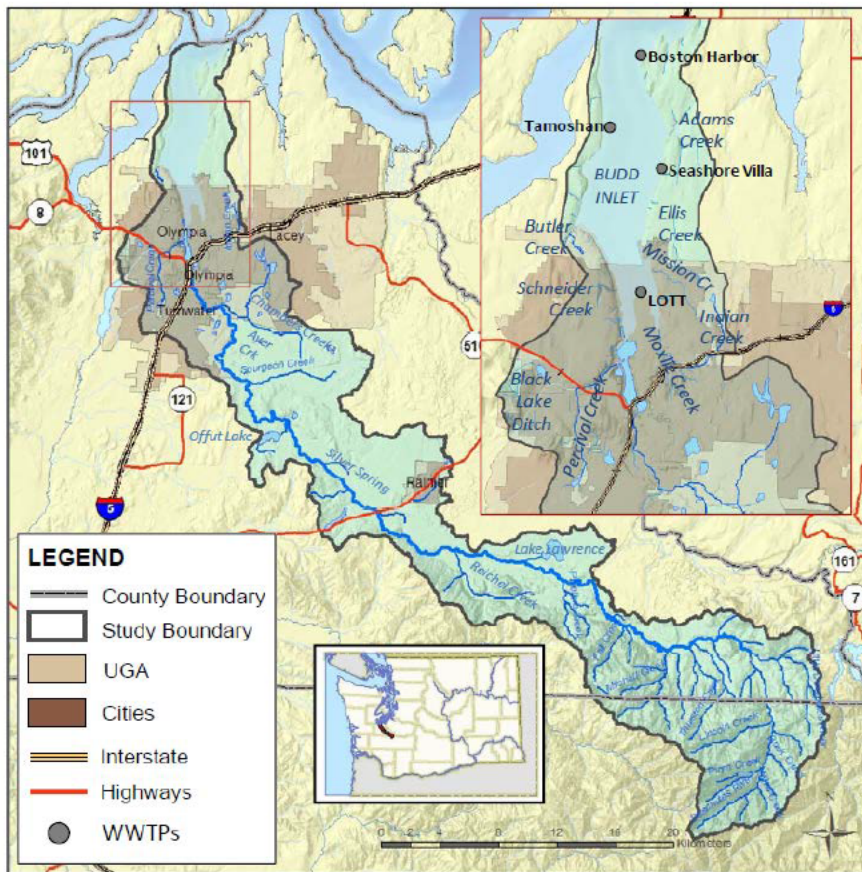


Figure 1. Study Area for Deschutes TMDLs (from Roberts et al., 2012, page 6).

Quick Summary

- ✓ Ecology is seeking approval for TMDLs that span 71 segments.
- ✓ Category 5 impairments: water temperature, DO, pH, fecal coliform bacteria, and fine sediment.
- ✓ Category 4C pollution: in-stream flows and large woody debris.
- ✓ TMDL split into two phases given technical complexity and political ramifications related to Capitol Lake and Budd Inlet impairments. Complexities include Capitol Lake as a source of low DO to South Sound and the need to obtain nutrient reductions from stormwater sources to address Capitol Lake phosphorus impairment.

Commented [Schary2]: Are they doing a TMDL for this? I don't see this pollutant mentioned again until you talk about the point sources receiving zero WLAs.

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[Redacted text block]

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- [Redacted list item]
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Commented [Schary4]: Don't you mean they weren't assigned WLAs, so no reductions are required by the TMDL?

Squaxin Island Tribe Concerns

SIT has maintained throughout the TMDL development and public notice process that the Phase 1 TMDL should address habitat (lack of woody debris, reduced stream flows). In addition, long implementation (b) (5)

requested the following agenda items be including during our consultation meeting scheduled for June 30th, 2016:

River Flow

- Decreasing flows of the Deschutes River
- River flow in the Ecology's Deschutes River temperature modeling
- (b) (5)
- Actions to be taken.

Commented [Schary5]: What is the use of italics meant to signify?

Riparian Shade

- (b) (5)
- Scale of the Deschutes River (flow, channel, and valley) relative to a 75 ft riparian buffer.
- Large woody debris as target allocations.
- Actions to be taken.

Addressing river flow is even more crucial, given that likelihood of full riparian shade restoration is low, and the timeframe is very long. ^u

Commented [Schary6]: Not sure if the use of quotation marks was intended – perhaps to indicate the entire section is extracted from an SIT email?

(b) (5)

Table 1. Critical Low Flows Calculated for the Deschutes River (from Roberts et al., 2012)

Years	Period	Rainier (12079000)		Years	E Street (12080010)	
		(cfs)	(cms)		(cfs)	(cms)
1949 – 2001	All data	24.0	0.68	1946 - 2002	64.1	1.8
1949 – 1969	Historical only	26.0	0.74	1945-1964	78.3	2.2
1991 – 2001	Recent only	21.4	0.61	1991-2001	56.3	1.6

In addition, SIT included the following in their public notice comments:

“The Clean Water Act does not allow Ecology to draw a bright line between its water quality and quantity programs. Rather, the Act requires “comprehensive solutions” to prevent, reduce and eliminate pollution in concert with programs for managing water; and (2) establishes the supreme goal of restoring and maintaining the chemical, physical, and biological integrity of the Nation’s waters. Drawing a bright line is a prohibited “artificial distinction.” PUD No. 1 v. Ecology, 511 U.S. 700, 719 (1994).”

(b) (5)

Options for Moving Forward

(b) (5)